

Board of Education Agenda Item

Item: A.

Date: July 27, 2005

Topic: First Review of Proposed Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions (HB 978, 2004 Session)

Presenter: Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

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Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by
☒ State or federal law or regulation
☐ Board of Education regulation
☐ Other: _____

☒ Action requested at this meeting

☐ Action requested at future meeting: _____

Previous Review/Action:

☐ No previous board review/action

☒ Previous review/action
date October 28, 2004
action Approved Notice of Intended Regulatory Action (NOIRA)

Background Information: Chapter 917, 2004 Acts of Assembly, directs the Board of Education to promulgate regulations providing for a process by which school divisions may submit proposals for consolidation. A new regulation must be promulgated to comply with the terms of Chapter 917. HB 978 amended § 22.1-25 of the Code to add the following language:

“...Consistent with its authority pursuant to Article VIII, Section 5 of the Constitution of Virginia to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality, the Board shall promulgate regulations consistent with the provisions of this section that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions. Such regulations shall provide for, among other things, a public notice and hearing process to be conducted by the applicant school divisions.

School divisions submitting proposals for consolidation shall include such information and data as may be required by the Board, including (i) the criteria set forth in subsection C; (ii) evidence of the cost savings to be realized by such consolidation; (iii) a plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division; (iv) procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (v) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (vi) evidence of local support for the proposed consolidation.

For five years following completion of such consolidation, the computation of the state and local share for an educational program meeting the standards of quality for school divisions resulting from consolidations approved pursuant to this subsection shall be the lower composite index of local ability-to-pay of the applicant school divisions, as provided in the appropriation act.”

Summary of Major Elements: The proposed regulations include the following provisions, as required by § 22.1-25:

- A public notice and hearing process to be conducted by the school divisions;
- Consideration of the criteria the following criteria specified in § 22.1-25 of the Code of Virginia:
 1. The school-age population of the school divisions;
 2. The potential of the proposed school division to offer a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality;
 3. The potential of the proposed school division to promote efficiency in the use of school facilities, and school personnel, and economy in operation;
 4. Anticipated increase or decrease in the number of children of school age in the proposed school division;
 5. Geographical area and topographical features as they relate to transportation facilities to provide for reasonable access by students to school facilities; and
 6. The ability of each existing school division to meet the standards of quality with its own resources and facilities, or in cooperation with another school division or divisions if arrangements for such cooperation have been made.
- Components of proposals for consolidation as specified by § 22.1-25 of the Code of Virginia:
 1. Evidence of the cost savings to be realized by such consolidation;
 2. A plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division;
 3. Procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms;

4. A plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and
5. Evidence of local support for the proposed consolidation.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act.

Impact on Resources: The impact on resources of the development and implementation of these regulations is not expected to be significant. However, the regulations are required by § 22.1-25 to provide for an incentive for the consolidation of school divisions by providing for the adjustment of the composite index of local ability to pay, as provided in the appropriation act. If school divisions choose to take advantage of this provision, there would be an increase in general fund costs, and a corresponding decrease in local costs for the applicable school division.

Timetable for Further Review/Action: The timetable for further review/action will be largely determined by the requirements of the APA and scheduling constraints that may arise during the process.

**PROPOSED REGULATIONS GOVERNING THE PROCESS FOR
SUBMITTING PROPOSALS TO CONSOLIDATE SCHOOL DIVISIONS
(8 VAC 20-710-10 et seq.)**

8 VAC 20-710-10 Statutory authority.

- A. The Constitution of Virginia, Article VIII, Section 5, authorizes the Board of Education to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality.
- B. The Code of Virginia, § 22.1-25, requires the Board of Education to promulgate regulations consistent with that section that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions.

8 VAC 20-710-20 Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Board” or “State Board” means the Board of Education.

“Governing body” or “local governing body” means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

“School board” means the school board that governs a school division.

8 VAC 20-710-30 Administration.

- A. The school divisions as they existed on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of these regulations and § 22.1-25 of the Code of Virginia.
- B. No school division shall be consolidated without the consent of the school board and the governing body of the county or city affected or, if a town comprises the school division, of the town council.
- C. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January 1 of the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.

D. The Board of Education shall consider the following criteria in determining appropriate school divisions:

1. The school-age population of the school division proposed to be divided or consolidated;
2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality;
3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation;
4. Anticipated increase or decrease in the number of children of school age in the proposed school division;
5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities; and
6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.

8 VAC 20-710-40 Consolidation process.

A. Local school divisions requesting to be consolidated shall submit a proposal to the Board of Education by September 1 of the year prior to the year they wish to consolidate.

B. Each proposal for consolidation shall include the following information and data:

1. The criteria set forth in 8 VAC 20-710-30 D;
2. Evidence of the cost savings to be realized by the consolidation;
3. A plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division;
4. Procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms;
5. A plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights;
6. Evidence of local support for the proposed consolidation;
7. A plan for maintaining and/or combining schools;
8. A plan to continue meeting the standards of accreditation; and
9. Documentation that both governing bodies and both school boards consent to the proposed consolidation.

C. Prior to the adoption of any plan to consolidate school divisions, each school division involved in the consolidation shall:

1. Post such plan on the division's Internet Web site;
2. Make a hard copy of the plan available for public inspection and copying; and
3. Conduct at least one public hearing to solicit public comment on the consolidation plan.